

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDUARDO GOMEZ GARCIA,

Petitioner,

v.

ICE Field Office Director,

Respondent.

Case No. 13-201-RSM-BAT

**REPORT AND
RECOMMENDATION**

I. INTRODUCTION AND SUMMARY CONCLUSION

On February 1, 2013, petitioner Eduardo Gomez Garcia filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking release from immigration custody or an individualized bond hearing. Dkt. No. 1. After the habeas petition was filed, petitioner was released from immigration custody under bond in the amount of \$7500. Dkt. No. 11, Exh. A. Because petitioner has been released from immigration custody, his habeas petition has become moot and should be dismissed.

II. DISCUSSION

Under 28 U.S.C. § 2241, a writ of habeas corpus “shall not extend to a prisoner unless . . . [h]e is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). The “in custody” requirement is satisfied at the time the petition is filed.

1 *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (citations omitted). To maintain a habeas claim, a
 2 petitioner must continue to have a personal stake in the outcome of the suit throughout “all stages
 3 of federal judicial proceedings.” *United States v. Verdin*, 243 F.3d 1174, 1177 (9th Cir. 2001).
 4 At any stage of the proceedings, a petition may become moot “because it no longer present[s] a
 5 case or controversy under Article III, § 2, of the Constitution.” *Spencer*, 523 U.S. at 7. “For a
 6 habeas petition to continue to present a live controversy after the petitioner’s release or
 7 deportation, however, there must be some remaining collateral consequences that may be
 8 redressed by success on the petition.” *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007) (citing
 9 *Spencer*, 523 U.S. at 7).

10 Here, the relief sought in the habeas petition is no longer available and there are no
 11 collateral consequences that may be redressed. *See id.* (“[W]here the grounds for habeas relief
 12 will not redress collateral consequences, a habeas petition does not continue to present a live
 13 controversy once the petitioner is released from custody.”). The habeas petition, therefore, has
 14 become moot and should be dismissed. *See id.*; *see also Cooney v. Edwards*, 971 F.2d 345, 346
 15 (9th Cir. 1992) (holding that the District Court properly dismissed plaintiff’s claims that had
 16 become either moot or unripe).

17 III. CONCLUSION

18 For the foregoing reasons, the Court recommends that this action be **DISMISSED** as
 19 moot. A proposed order accompanies this Report and Recommendation.

20 DATED this 28th day of March, 2013.

21 

22 BRIAN A. TSUCHIDA
 23 United States Magistrate Judge